



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 19985

Ms. Tamara Armstrong
Assistant County Attorney
Travis County Courthouse
P.O. Box 1748
Austin, Texas 78767

OR95-1341

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24467.

Travis County (the "county") received a request for information concerning a pursuit by Travis County sheriff's deputies which ended when the pursued vehicle collided with another automobile. The requestor, who represents an individual injured in that collision, seeks information concerning the pursuit and resulting accident. The requestor has also asked for the names and addresses of "all persons in the supervisory chain of command for the Travis County Sheriff, Deputy A. Maldonado; Lt. S. Burroughs; and Deputy J. Jewert." You indicate that you have already released a videotape of the accident scene and a motor vehicle accident report obtained from the Department of Public Safety. You contend, however, that the other requested information is excepted from disclosure under sections 552.103 and 552.117 of the Open Records Act. You have submitted to this office for review three audio tapes, various reports, affidavits, and other documents.

Section 552.103 provides an exception from required public disclosure for information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

You have provided information that indicates the county is engaged in settlement negotiations relating to the accident. A review of the responsive documents and audiotapes indicates that the submitted information is related to the pursuit and subsequent accident, which is the subject of the settlement negotiations.¹ You have therefore shown that section 552.103 is applicable in this situation. We note, however, that if the settlement negotiations have concluded and litigation is not pending, section 552.103 is inapplicable.

However, we note that some of the information submitted to this office may contain public information that must be released. Basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991). Basic information includes the location of the incident, time of occurrence, and a description of the incident. *Id.* at 2. In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976), the court identified certain types of information which are public. Although this information is generally found on the first page of an offense report, its location is not determinative. It must be released regardless of where it is found. To determine what information must be released, the type of information must be examined rather than where it is located. See Open Records Decision No. 127 (1976) at 5. We have enclosed a summary of the types of information considered public which must be disclosed. To the extent that the submitted information is not required to be released, it may be withheld under section 552.103.²

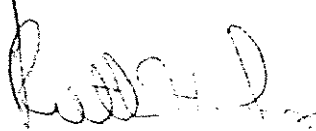
You also contend that section 552.117 protects the requested addresses of sheriff's deputies. Section 552.117 provides an exception from disclosure for the home addresses and home telephone numbers of peace officers, as defined by Article 2.12 of the Code of Criminal Procedure. Article 2.12 includes in the definition of "peace officers" sheriffs and their deputies. Therefore, you may not release the home addresses of sheriff's deputies to the requestor. Open Records Decision No. 532 (1989).

¹A review of the audiotapes indicates that there is some information not directly related to the pursuit and accident. Since this information is not responsive to the request, we did not review it to determine if it would be excepted from disclosure.

²We note that since the section 552.103 exception is discretionary with the governmental entity asserting the exception, it is within the county's discretion to release this information to the requestor. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/MAR/rho

Ref.: ID# 24467

Enclosures: Submitted documents and tapes
Summary of Open Records Decision No. 127

cc: Mr. Daniel G. Covich
Attorney at Law
Rosenthal & Covich
1002 Rio Grande
Austin, Texas 78701-2014
(w/o enclosures)